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10/589,146

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Kaspar Haltiner

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THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

EXAMINER

HARP, WILLIAM RAY

ART UNIT

PAPER NUMBER

3651

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 10/589,146 | Applicant(s) HALTINER, KASPAR | |
| | Examiner William R. Harp | Art Unit 3651 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-40 is/are pending in the application.
- 4a) Of the above claim(s) 20-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/9/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of claims 31-40 in the reply filed on July 16, 2009 is acknowledged.

2. Claims 20-30 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on July 16, 2009.

Priority

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

4. The information disclosure statement (IDS) was submitted on October 9, 2007. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 34 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim is narrative and it is unclear what is being positively set forth (i.e. "is configured to", "in such a manner"). The examiner will treat the claim as best understood.

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7. Claim 35 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim element “first delivery means” is a means (or step) plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to clearly link or associate the disclosed structure, material, or acts to the claimed function such that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function.

Applicant is required to:

(a) Amend the claim so that the claim limitation will no longer be a means (or step) plus function limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it clearly links or associates the corresponding structure, material, or acts to the claimed function without introducing any new matter (35 U.S.C. 132(a)); or

(c) State on the record where the corresponding structure, material, or acts are set forth in the written description of the specification that perform the claimed function. For more information, see 37 CFR 1.75(d) and MPEP §§ 608.01(o) and 2181.

Claim element “second delivery means” is a means (or step) plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to clearly link or associate the disclosed structure, material, or acts to the claimed function such that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function.

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Applicant is required to:

(a) Amend the claim so that the claim limitation will no longer be a means (or step) plus function limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it clearly links or associates the corresponding structure, material, or acts to the claimed function without introducing any new matter (35 U.S.C. 132(a)); or

(c) State on the record where the corresponding structure, material, or acts are set forth in the written description of the specification that perform the claimed function. For more information, see 37 CFR 1.75(d) and MPEP §§ 608.01(o) and 2181.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ramsey et al. (USPN 5579810) in view of Spatafora (USPN 6845861).

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11. Regarding Claim 31, Ramsey et al. teaches supplying springs individually (from coiler 56a or b to conveyor 57a or b) and delivering the springs at a lower delivery point to a spring conveyor (as illustrated in Figure 5a, where the spring conveyor is 51). Ramsey et al. fails to teach changing the relative position of the lower delivery point with respect to the spring conveyor. Spatafora teaches conveyor (4) and (5) operating at speeds V1 and V2, respectively. Articles (2) are transferred from conveyor (4) to conveyor (5) using transfer device (6). Transfer device (6) comprises a carriage (19) that is moved [C2, L57-58]. The examiner considers moving the transfer device to be changing the relative position of a lower delivery point with respect to an output conveyor (5). It would have been obvious to change the relative position of the lower delivery point with respect to the spring conveyor as taught by Spatafora.

12. Regarding Claim 32, Ramsey et al. teaches delivering the springs individually to a transfer conveyor (by coiler 56a,b) at an upper delivery point (as illustrated in Figure 5), wherein the upper delivery point remains constant in its relative position with respect to the spring conveyor, conveying springs to the lower delivery point (as illustrated), and delivering the springs at the lower delivery point to the spring conveyor [C9, L36-61].d

13. Regarding Claim 33, Ramsey et al. fails to teach the spring conveyor is operated in one of a constant cycle and at a constant speed. Spatafora teaches an instance where the speed of the second conveyor is constant [C3, L21-38], therefore it would have been obvious that the spring conveyor operate in a constant cycle and speed and achieve predictable results.

14. Regarding Claim 34, Ramsey et al. teaches (as best understood) a spring conveyor (51) and a device for transferring springs (66, 67). The location of the device is considered to be a lower delivery point. Ramsey et al. fails to teach that the relative position of the lower delivery

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point with respect to the spring conveyor is changeable. Spatafora teaches a transfer device (6) at a lower delivery point between two conveyors (4, 5). The transfer device is movable (as described above). Therefore, the relative position of the lower delivery point with respect to the downstream conveyor is changeable. It would have been obvious to make the relative position of the lower delivery point with respect to the spring conveyor changeable as taught by Spatafora.

15. Regarding Claim 35, Ramsey et al. teaches a transfer conveyor (57 a or b), a first delivery means (coiler 56 a or b) situated at an upper delivery point (as illustrated), and a second delivery means (66, 67). Again the second delivery means are not movable, but Spatafora teaches a movable transfer device (as described above). It would have been obvious to make the second delivery means movable as taught by Spatafora.

16. Regarding Claim 36, the upper delivery point remains constant (as illustrated).

17. Regarding Claim 37, the first and second delivery means deliver the springs individually [C9, L24, “intermittently feeding coils”].

18. Regarding Claims 38 and 39, Ramsey et al. teaches a servomotor (58) for the transfer conveyor, yet teaches a stepper motor (53) for the spring conveyor. However, servo motors are old and well-known in the art, and it would have been obvious to use a servo motor for the spring conveyor in a manner identical to the servo motor of the transfer conveyor.

19. Regarding Claim 40, the spring conveyor and transfer conveyor include two belt conveyors situated parallel to each other [C9, L14-15] (as illustrated).

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Conclusion

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William R. Harp whose telephone number is (571) 270-5386.

The examiner can normally be reached on Monday - Thursday, 8:30 AM - 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gene Crawford/
Supervisory Patent Examiner, Art Unit
3651

/W. R. H./
Examiner, Art Unit 3651